

AMENDED IN SENATE AUGUST 23, 2006

AMENDED IN SENATE AUGUST 7, 2006

AMENDED IN ASSEMBLY MAY 26, 2006

AMENDED IN ASSEMBLY MAY 3, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## ASSEMBLY BILL

**No. 2723**

**Introduced by Assembly Member Pavley**

**(Coauthors: Assembly Members Cohn, Frommer, Koretz, Levine,  
Lieber, Ruskin, Saldana, and Shirley Horton)**

**(Coauthors: Senators Kehoe, Kuehl, and Murray)**

February 24, 2006

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An act to add and repeal Article 1 (commencing with Section 2852) of Chapter 9 of Part 2 of Division 1 Section 2852 of the Public Utilities Code, relating to energy.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2723, as amended, Pavley. Electricity: solar energy: Low-Income Housing Development Program.

Under existing law, the Public Utilities Commission (PUC) adopted the California Solar Initiative that provides incentive to customer-side photovoltaics and solar thermal electric project under one megawatt and that 10% of the funds are to be used for low-income residential customers and affordable housing projects *has regulatory authority over public utilities, including electrical corporations and gas corporations, as defined. A decision of the PUC adopted the California Solar Initiative under which the PUC will oversee a program to promote solar energy technologies, administered by*

*electrical corporations and gas corporations, for commercial and residential customers, funded through electrical corporation and gas corporation revenues and collected from gas and electric utility distribution rates.*

*This bill would establish, until January 1, 2016, the Low-Income Housing Development and Nonprofit Building Program (program) to help finance solar energy systems, as defined, in eligible low-income residential housing located in the service areas of an electrical corporation. The bill would require the program be part of the California Solar Initiative, and that 10% of the funding from the California Solar Initiative be set aside for the Low-Income Housing Development and Nonprofit Building Program prohibit the establishment of the California Solar Initiative from resulting in the diversion of any moneys from any existing programs for low-income ratepayers, or from cost-effective energy efficiency or demand response programs. The bill would require the PUC to ensure that not less than 10% of the overall funds for the California Solar Initiative are utilized for the installation of solar energy systems, as defined, on low-income residential housing, as defined. The bill would require the PUC to ensure that a revolving loan or loan guarantee program is incorporated into the California Solar Initiative for low-income residential housing.*

*The bill would require the PUC to establish an advisory committee consisting of representatives from specified agencies and would require the committee to evaluate methods for providing assistance to encourage the use of solar technologies and to make recommendations to the PUC on the implementation of the program. The bill would require the PUC to review the advisory committee's recommendations before adopting and implementing a program to help finance solar energy systems in residential low-income housing.*

*The bill would require that all unencumbered moneys, moneys set aside for the purpose of funding the program, installation of solar energy systems on low-income residential housing, that are unexpended and unencumbered on January 1, 2006 2016, and all unencumbered moneys thereafter repaid from loans made for the installation of solar energy systems on low-income residential housing, be administered by the PUC for utilized to augment existing cost-effective energy efficiency measures in low-income residential housing that benefit ratepayers.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 2852 is added to Chapter 9 of Part 2 of*  
2     *Division 1 of the Public Utilities Code, to read:*

3     2852. (a) *As used in this section, the following terms have*  
4     *the following meanings:*

5     (1) *“California Solar Initiative” means the program providing*  
6     *ratepayer funded incentives for eligible solar energy systems*  
7     *adopted by the Public Utilities Commission in Decision*  
8     *05-12-044 and Decision 06-01-024.*

9     (2) *“Low-income residential housing” means either of the*  
10    *following:*

11    (A) *Residential housing financed with low-income housing tax*  
12    *credits, tax-exempt mortgage revenue bonds, general obligation*  
13    *bonds, or local, state, or federal loans or grants, and for which*  
14    *the rents of the occupants who are lower income households, as*  
15    *defined in Section 50079.5 of the Health and Safety Code, do not*  
16    *exceed those prescribed by deed restrictions or regulatory*  
17    *agreements pursuant to the terms of the financing or financial*  
18    *assistance.*

19    (B) *A residential complex in which at least 20 percent of the*  
20    *total units are sold or rented to lower income households, as*  
21    *defined in Section 50079.5 of the Health and Safety Code, and*  
22    *the housing units targeted for lower income households are*  
23    *subject to a deed restriction or affordability covenant with a*  
24    *public entity that ensures that the units will be available at an*  
25    *affordable housing cost, as defined in Section 50052.5 of the*  
26    *Health and Safety Code, or at an affordable rent, as defined in*  
27    *Section 50053 of the Health and Safety Code for a period of at*  
28    *least 30 years.*

29    (3) *“Solar energy system” means a solar energy device that*  
30    *has the primary purpose of providing for the collection and*  
31    *distribution of solar energy for the generation of electricity, that*  
32    *produces at least one kilowatt, and except for a solar energy*  
33    *device for a nonprofit building, produces not more than five*  
34    *megawatts, alternating current rated peak electricity, and that*  
35    *meets or exceeds the eligibility criteria established by the*

1 *commission or the State Energy Resources Conservation and*  
2 *Development Commission.*

3 *(b) In establishing the California Solar Initiative, no moneys*  
4 *shall be diverted from any existing programs for low-income*  
5 *ratepayers, or from cost-effective energy efficiency or demand*  
6 *response programs.*

7 *(c) (1) The commission shall ensure that not less than 10*  
8 *percent of the funds for the California Solar Initiative are utilized*  
9 *for the installation of solar energy systems on low-income*  
10 *residential housing. Notwithstanding any other law, the*  
11 *commission may modify the monetary incentives made available*  
12 *pursuant to the California Solar Initiative to accommodate the*  
13 *limited financial resources of low-income residential housing.*

14 *(2) The commission shall ensure that a revolving loan or loan*  
15 *guarantee program is incorporated into the California Solar*  
16 *Initiative for low-income residential housing. All loans*  
17 *outstanding as of January 1, 2016, shall continue to be repaid*  
18 *consistent with the terms and conditions of the program adopted*  
19 *and implemented by the commission pursuant to this subdivision,*  
20 *until repaid in full.*

21 *(3) All moneys set aside for the purpose of funding the*  
22 *installation of solar energy systems on low-income residential*  
23 *housing that are unexpended and unencumbered on January 1,*  
24 *2016, and all moneys thereafter repaid pursuant to paragraph*  
25 *(2), except to the extent those moneys are encumbered pursuant*  
26 *to this section, shall be utilized to augment existing cost-effective*  
27 *energy efficiency measures in low-income residential housing*  
28 *that benefit ratepayers.*

29 ~~SECTION 1. Article 1 (commencing with Section 2852) is~~  
30 ~~added to Chapter 9 of Part 2 of Division 1 of the Public Utilities~~  
31 ~~Code, to read:~~

32  
33 ~~Article 1. Low-Income Housing Development and Nonprofit~~  
34 ~~Building Program~~  
35

36 ~~2852. As used in this article, the following terms have the~~  
37 ~~following meanings:~~

38 ~~(a) "Allocation" means a loan, loan guarantee, rebate, or other~~  
39 ~~incentive established pursuant to this article.~~

1     (b) ~~“Building” means an existing or planned structure for~~  
2     ~~residential uses that includes a heating or cooling system, or~~  
3     ~~both. Additions to an original building shall be considered part of~~  
4     ~~that building rather than a separate building.~~

5     (e) ~~“California Solar Initiative” means an initiative adopted by~~  
6     ~~the Public Utilities Commission in Decision 06-01-024.~~

7     (d) ~~“Low-income residential housing” means affordable~~  
8     ~~residential housing units that are defined in Section 50052.5 or~~  
9     ~~50053 of, or are undertaken, constructed, or operated pursuant to~~  
10    ~~Chapter 3.6 (commencing with Section 50199.4) of Part 1 of~~  
11    ~~Division 31 of, the Health and Safety Code.~~

12    (e) ~~“Nonprofit entity” means an entity as defined in~~  
13    ~~paragraphs (2) and (3) of subdivision (c) of Section 71116 of the~~  
14    ~~Public Resources Code.~~

15    (f) ~~“Program” means the Low-Income Housing Development~~  
16    ~~and Nonprofit Building Program created by Section 2853.~~

17    (g) ~~“Solar energy system” means a solar energy device that~~  
18    ~~has the primary purpose of providing for the collection and~~  
19    ~~distribution of solar energy for the generation of electricity that is~~  
20    ~~qualified by the commission for participation in the program.~~

21    2853. ~~The Low-Income Housing Development and Nonprofit~~  
22    ~~Building Program is hereby established. The purposes of the~~  
23    ~~program are as follows:~~

24    (a) ~~To provide low cost financing for solar energy systems in~~  
25    ~~low-income residential housing units located in the service areas~~  
26    ~~of an electrical corporation contributing funds to support the~~  
27    ~~program.~~

28    (b) ~~To be a cost-effective investment by ratepayers in peak~~  
29    ~~electricity generation capacity that enables ratepayers to recoup~~  
30    ~~the cost of their investment through lower rates as a result of~~  
31    ~~avoiding purchases of electricity at peak rates generated by~~  
32    ~~traditional powerplants and peaked generation units, with~~  
33    ~~additional system reliability and pollution reduction benefits.~~

34    (c) ~~To reduce net energy consumption in low-income~~  
35    ~~residential buildings by integrating energy-efficient technologies~~  
36    ~~with solar technologies.~~

37    2854. ~~The Low-Income Housing Development and Nonprofit~~  
38    ~~Building Program established by this article and adopted and~~  
39    ~~implemented by the commission, pursuant to subdivision (c) of~~  
40    ~~Section 2855 shall be included in the program providing~~

1 ~~ratepayer-funded incentives for eligible solar energy systems~~  
2 ~~adopted by the commission's Decision 06-01-024. Each year ten~~  
3 ~~percent of the funding provided by the commission's Decision~~  
4 ~~06-01-024 shall be set aside for the Low-Income Housing~~  
5 ~~Development and Nonprofit Building Program.~~

6 ~~2855. (a) The commission shall create an advisory~~  
7 ~~committee that includes representatives from the California Tax~~  
8 ~~Credit Allocation Committee (TCAC), the California Housing~~  
9 ~~Finance Agency, and the Department of Housing and~~  
10 ~~Community Development to develop guidelines for the program.~~

11 ~~(b) The advisory committee shall do all of the following:~~

12 ~~(1) (A) Evaluate and recommend to the commission methods~~  
13 ~~of providing assistance to encourage the use of solar technologies~~  
14 ~~to attain progress towards attaining a net neutral electricity~~  
15 ~~utilization by low-income residents. The methods of providing~~  
16 ~~assistance that may be considered include, but are not limited to,~~  
17 ~~a revolving loan program, a loan guarantee program, rebates, or~~  
18 ~~other proven incentives to maximize effectiveness.~~

19 ~~(B) If the advisory committee recommends the creation of a~~  
20 ~~revolving loan program, it shall include, in its recommendations,~~  
21 ~~both of the following:~~

22 ~~(i) The use of an interest rate that is not less than the current~~  
23 ~~discount rate, as published by the Federal Reserve Bank of San~~  
24 ~~Francisco.~~

25 ~~(ii) Procedures for default situations and situations when the~~  
26 ~~borrower's building no longer qualifies for the loan due to a~~  
27 ~~change in low-income status of the building.~~

28 ~~(2) Develop guidelines and applicant eligibility criteria that~~  
29 ~~will do all of the following:~~

30 ~~(A) Provide greater solar incentives for residents who~~  
31 ~~implement energy-efficient applications.~~

32 ~~(B) Benefit the most financially constrained residential~~  
33 ~~electricity customers first.~~

34 ~~(C) Encourage the use of solar generation panels for new~~  
35 ~~low-income building construction.~~

36 ~~(3) Consider applying time-variant pricing for qualifying~~  
37 ~~residential customers to mitigate demand during peak times.~~

38 ~~(4) Require energy-efficiency audits for qualifying residents.~~

39 ~~(e) The commission shall review the recommendations made~~  
40 ~~by the advisory committee pursuant to subdivision (b) prior to~~

1 adopting and implementing a program to meet the goals of this  
2 article.

3 2856. Annually at the conclusion of each fiscal year, but not  
4 later than October 31, each applicant that has received an  
5 allocation pursuant to this article shall compute and report to the  
6 commission the cost of the energy saved as a result of  
7 implementing the solar energy system funded by the allocation.  
8 The cost shall be calculated in a manner prescribed by the  
9 commission.

10 2857. (a) Except as provided in subdivision (b), this article  
11 shall remain in effect only until January 1, 2016, and as of that  
12 date is repealed, unless a later enacted statute, which is enacted  
13 before January 1, 2016, deletes or extends that date.

14 (b) All loans outstanding as of January 1, 2016, shall continue  
15 to be repaid to the commission consistent with the terms and  
16 conditions of the program adopted and implemented by the  
17 commission pursuant to subdivision (c) of Section 2855 until  
18 paid in full. All unexpended moneys, set aside for the purpose of  
19 funding the program, on January 1, 2016, and thereafter, except  
20 to the extent those moneys are encumbered pursuant to this  
21 article, shall be administrated by the commission for  
22 cost-effective energy efficiency measures in low-income  
23 residential housing that benefit ratepayers.